REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested. By the present Amendment, claims 32 and 33 are canceled and claim 28 is amended to correct a typographical error.

In the Office Action, claims 28-33 were withdrawn from consideration as being directed to a non-elected invention. Claims 9-11 and 24-27 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. patent application publication no. 2001/0013123, to Freeman et al (hereinafter referred to as Freeman et al), in view of U.S. Patent No. 5,754,854, to Kanamori et al (hereinafter referred to as Kanamori et al). Claims 18 and 19 are rejected under 35 U.S.C. § 103(a) as being obvious over Freeman et al in view of Kanamori et al and U.S. Patent No. 5,724,521, to Dedrick (hereinafter referred to as Dedrick). The Applicants respectfully traverse these rejections.

Attorney for Applicants wishes to thank the Examiner for the courtesy of an in-person interview on September 12, 2005. During the interview, Attorney for Applicants discussed independent claim 28 and recitation therein of aspects of the present invention that are similar to those already recited in pending claims 9 and 11. Accordingly, Attorney for Applicants requested consideration of independent claim 28 and dependent claims 29-31.

Also during the interview, Attorney for Applicants explained that the system disclosed in the Freeman et al patent teaches that "Switches between the various program segments of a customized programming presentation occur *prior to transmission* (emphasis added) at video splice points 336," as stated in paragraph [0051]. Accordingly, the Freeman et al patent does not teach the invention recited in claim 9, that is, a floating reference content block generated and transmitted in a broadcast data stream that is (1) later substituted with a reference content block, which comprises selected content or a reference to a selected content storage location, after transmission;

and (2) wherein the selected content is selected via the recited optimal match after transmission of the floating reference content block in the broadcast data stream.

In addition, during the interview, Attorney for Applicants explained that the Kanamori et al patent does not overcome the deficiencies of the Freeman et al patent application since Kanamori et al merely discloses transfer of data between programs on a computer, and not content delivery to another machine. At the conclusion of the interview, the Examiner agreed to discuss the above points with her supervisor.

Attorney for Applicants also wishes to thank the Examiner for the courtesy of conducting a meeting with Supervisory Patent Examiner (SPE) Zami Maung in Art Unit 2151, and teleconference with Attorney for Applicants thereafter, on September 13, 2005. The Examiner indicated that the SPE interpreted empty blocks recited in claim 9 as a URL. The SPE considers the URL to be metadata and filled with new data when opened and transmitted to a website. The SPE cited paragraphs [0029] and [0091] of Freeman et al in support of his position. The Examiner also indicated that claim 28 was deemed by the SPE to have 35 U.S.C. §112 issues since the recitation of "at least one of metadata and data" apparently renders the claim unclear due to the later recitations in the claim relating to metadata and the recitation of "metadata comprising data specifying..." in the second paragraph of claim 28.

Applicants respectfully submit that claim 28 has been amended herein to correct a typographical error and should therefore overcome of the afore-mentioned prospective 35 U.S.C. §112 issues. Further, the Applicants respectfully disagree with the SPE's interpretation of a URL as purportedly teaching an "empty block" as recited in claim 9 with respect to a floating reference content block.

First, a URL is static and points to a specific data resource and cannot, as the SPE apparently suggests, be dynamically made to point elsewhere to suit the taste of a particular user. For example, a given URL will not point to www.google.com for one

user and to www.yahoo.com for another. To do so would make it impossible to utilize a URL as a means of communicating the location of information, as is done routinely. In addition, such a behavior would contradict the very reason why business entities register their domain names. A floating reference content block as claimed, on the other hand, is dynamic and is not resolved or substituted for a reference content block until after the broadcast stream comprising the floating reference content block is transmitted as recited in claim 9.

Secondly, a URL is not a broadcast data stream which is recited in the independent claims 9 and 28. A URL is used to point to a specific source for content, and it allows content to be retrieved from that source. Content delivered via a URL is bulk data which is often delivered to a browser. Individual data packets that constitute this bulk data may be delivered in any order and at any rate. This is not the case with a broadcast data stream which requires the packets that constitute the stream to be delivered in order at a well defined rate.

Third, in Freeman et al, the URLs are only used for storing and accessing user profiles that are used to select the programming that is sent in the customized programming presentation. As stated previously, Freeman et al does not disclose content blocks as claimed, and particularly not floating reference content blocks that are sent in a broadcast data stream and substituted with a reference content block after transmission of the broadcast data stream. Freeman et al determines a customized programming presentation and, following transmission to the user, does not change or splice video into the transmitted signal thereafter. Any splicing occurs prior to transmission. Unlike the URL or any programming signal disclosed or suggested in Freeman et al, the data source pointed to or the content in a floating reference content block recited in claim 9 is not determined until after the broadcast data stream containing the floating reference content block is transmitted. Further, unlike a URL or any programming signal in Freeman et al, a floating reference content block can be a pointer to another content block within the broadcast stream, as recited in claim 10.

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The SPE's support for interpreting the teaching of Freeman et al to include a URL in program delivery in paragraphs [0029] and [0091] still fails to teach the present invention as claimed, even if a URL could arguably be considered an empty block, which the Applicants rebut.
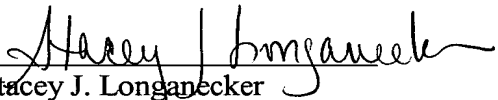
Paragraph [0029] of Freeman et al merely indicates that programming segments for use in a customized programming presentation may be accessed by the transmission center 102 over the internet or from a remote file server through a standard file transfer interface protocol such as the worldwide web (WWW) interface. Applicants respectfully submit that this is irrelevant since it merely teaches how programming segments are obtained *before* transmission to the user. Further, as stated above, Freeman et al teaches transmission of customized programming presentation for which selected segments are already switched into the transmitted presentation.

Paragraph [0091] of the Freeman et al reference describes how the execution environment for donuts having user profiles can be implemented using for example an http servlet, and therefore has nothing to do with transmission of a URL and then later opening and filling of the URL with data which the Examiner interprets as purportedly teaching the transmission of the customized programming to a user. The use of user profile donuts merely relates to selecting custom programming for a user, and is completely irrelevant with respect to transmitting the customized programming to a user. Applicants respectfully submit that paragraph [0084] of Freeman also discusses URLs; however, the discussion of URLs in paragraph [0084] is related to the discussion of user profile systems being maintained and has nothing to do with the transmission of a customized program once the program is created based on user profile.

In view of the above, it is believed that the application is in condition for allowance and notice to this effect is respectfully requested. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

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